

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert E. Simonson
Application No: 10/024,221
Filing Date: October 30, 2001
Entitled: NON CANNULATED DILATORS
Atty. Docket No: 101896-275 (DEP-5240)

Group Art Unit: 3731

Examiner: Kevin T. Truong

Certificate of Mailing (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is being deposited with the United States Postal Service Post Office as first class mail in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

August 27, 2004

Date of Signature and Mail Deposit

By:

Lisa J. Michaud, Reg. No: 44,238

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL

Dear Sir:

Applicant hereby petitions the Commissioner of Patents and Trademarks to make special the above-referenced patent application and, thereby, to accelerate its examination in accordance with 37 C.F.R. §1.102(d) and MPEP 708.02(II). Accompanying this Petition is a check in the amount of \$130.00, as required by 37 CFR 1.17(h). Please charge any additional fees necessary for this Petition to Deposit Order Account 141449.

Applicant requests that this application be made special on the basis of actual infringement. In accordance with MPEP 708.02(II), Applicant's undersigned representative hereby declares the following:

1. There is a device currently sold in the United States that infringes at least one claim currently pending in the above-referenced patent application.

2. A rigid comparison of the infringing device with the claims of the present application has been made, and, in my opinion, some of the claims are unquestionably infringed.

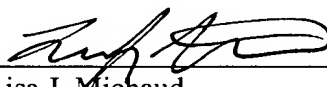
3. A careful and thorough search of the prior art has been made, and a copy of each of the references deemed most closely related to the subject matter encompassed by the claims has previously been submitted and is being made of record in an Information Disclosure Statement filed concurrently herewith.

4. The undersigned further declares that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

For all of the aforementioned reasons, Applicants respectfully request that this application be made special. Should any questions arise in connection with this Petition to Make Special, please call the attorney whose name appears below.

Respectfully submitted,

Date: August 27, 2004



Lisa J. Michaud
Reg. No. 44,238
Attorney for Applicants

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 130.00

Complete if Known

| | |
|----------------------|------------------------|
| Application Number | 10/024,221-Conf. #2150 |
| Filing Date | October 30, 2001 |
| First Named Inventor | Robert E. Simonson |
| Examiner Name | K. T. Truong |
| Art Unit | 3731 |
| Attorney Docket No. | 101896-0275 (DEP-5240) |

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number 141449

Deposit Account Name Nutter McClennen & Fish LLP

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|--|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1051 | 130 | 2051 | 65 | Surcharge - late filing fee or oath | |
| 1052 | 50 | 2052 | 25 | Surcharge - late provisional filing fee or cover sheet. | |
| 1053 | 130 | 1053 | 130 | Non-English specification | |
| 1812 | 2,520 | 1812 | 2,520 | For filing a request for <i>ex parte</i> reexamination | |
| 1804 | 920* | 1804 | 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 | 1,840* | 1805 | 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 | 110 | 2251 | 55 | Extension for reply within first month | |
| 1252 | 420 | 2252 | 210 | Extension for reply within second month | |
| 1253 | 950 | 2253 | 475 | Extension for reply within third month | |
| 1254 | 1,480 | 2254 | 740 | Extension for reply within fourth month | |
| 1255 | 2,010 | 2255 | 1,005 | Extension for reply within fifth month | |
| 1401 | 330 | 2401 | 165 | Notice of Appeal | |
| 1402 | 330 | 2402 | 165 | Filing a brief in support of an appeal | |
| 1403 | 290 | 2403 | 145 | Request for oral hearing | |
| 1451 | 1,510 | 1451 | 1,510 | Petition to institute a public use proceeding | |
| 1452 | 110 | 2452 | 55 | Petition to revive - unavoidable | |
| 1453 | 1,330 | 2453 | 665 | Petition to revive - unintentional | |
| 1501 | 1,330 | 2501 | 665 | Utility issue fee (or reissue) | |
| 1502 | 480 | 2502 | 240 | Design issue fee | |
| 1503 | 640 | 2503 | 320 | Plant issue fee | |
| 1460 | 130 | 1460 | 130 | Petitions to the Commissioner | 130.00 |
| 1807 | 50 | 1807 | 50 | Processing fee under 37 CFR 1.17(q) | |
| 1806 | 180 | 1806 | 180 | Submission of Information Disclosure Stmt | |
| 8021 | 40 | 8021 | 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 | 770 | 2809 | 385 | Filing a submission after final rejection (37 CFR 1.129(a)) | |
| 1810 | 770 | 2810 | 385 | For each additional invention to be examined (37CFR 1.129(b)) | |
| 1801 | 770 | 2801 | 385 | Request for Continued Examination (RCE) | |
| 1802 | 900 | 1802 | 900 | Request for expedited examination of a design application | |

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130.00

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1001 | 770 | 2001 | 385 | Utility filing fee | |
| 1002 | 340 | 2002 | 170 | Design filing fee | |
| 1003 | 530 | 2003 | 265 | Plant filing fee | |
| 1004 | 770 | 2004 | 385 | Reissue filing fee | |
| 1005 | 160 | 2005 | 80 | Provisional filing fee | |

SUBTOTAL (1) (\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| | | Extra Claims | | Fee from below | | Fee Paid |
|-----------------------|----------------------|-----------------|----------------------|-------------------|----------------------|------------------------|
| Total Claims | <input type="text"/> | -20** = | <input type="text"/> | x | <input type="text"/> | = <input type="text"/> |
| Independent Claims | <input type="text"/> | -3** = | <input type="text"/> | x | <input type="text"/> | = <input type="text"/> |
| Multiple Dependent | | | | | <input type="text"/> | = <input type="text"/> |

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|--|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1202 | 18 | 2202 | 9 | Claims in excess of 20 | |
| 1201 | 86 | 2201 | 43 | Independent claims in excess of 3 | |
| 1203 | 290 | 2203 | 145 | Multiple dependent claim, if not paid | |
| 1204 | 86 | 2204 | 43 | ** Reissue independent claims over original patent | |
| 1205 | 18 | 2205 | 9 | ** Reissue claims in excess of 20 and over original patent | |

SUBTOTAL (2) (\$) 0.00

**or number previously paid, if greater; For Reissues, see above

SUBMITTED BY

Name (Print/Type) Lisa J. Michaud

Registration No. (Attorney/Agent) 44,238

(Complete if applicable)

Telephone (617) 439-2000

Signature

Date August 27, 2004

Fee Transmittal

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Dated: August 27, 2004

Signature: (Lisa J. Michaud)